

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:)
)
Carriage of Digital Television Broadcast) CS Docket No. 98-120
Signals: Amendment to Part 76 of the)
Commission's Rules)

**REPLY COMMENTS OF
AMERICANS FOR PROSPERITY, AMERICANS FOR TAX REFORM, INSTITUTE
FOR LIBERTY, AND MEDIA FREEDOM PROJECT**

Our organizations are dedicated to giving ordinary taxpayers and consumers who believe in limited government a voice in important policy battles that often take place exclusively between special interests. We believe an important free market principle is at risk with respect to the Second Further Notice of Proposed Rulemaking (“Notice”) in the above-captioned proceeding.

After the digital television transition, broadcasters will broadcast only in digital formats. Cable operators are required to carry the “must-carry” channels, and have said they intend to do so. The problem comes when the must-carry stations demand dual-carriage, or the right to be broadcast in both digital and analog on cable systems.

The obligation for cable operators to broadcast must-carry stations should not be expanded from the general requirement that the stations be carried in their native (digital) signal.

Must-carry stations are by definition among the least popular programming to consumers, because more popular broadcast stations negotiate retransmission agreements with cable operators. Moreover, cable bandwidth is finite, and analog transmission uses huge amounts of bandwidth, consuming as much as 10 to 12 times the bandwidth of standard definition digital signal. Therefore, to force dual carriage is to institute a policy that devotes the greatest amount of finite bandwidth to the least popular stations.

That additional bandwidth consumption has economic consequences for both producers, whose costs increase and programming options decrease, as well as consumers, who are likely to be affected by the higher prices and fewer choices that result.

Analog cable consumers who decide they want specific digital must-carry stations could choose to upgrade to digital cable service. However, under the dual-carry rule proposed in the Notice, the only alternative cable operators would have to bandwidth-hogging dual-transmission would be for that cable operator to *force* all its analog customers to upgrade to a more expensive digital service. This forces needlessly bad choices on producers and consumers.

We hope the Commission recognizes that the marketplace for video services is increasingly competitive. Such a competitive marketplace surely offers a more powerful and dynamic method of ensuring that customers receive the video services they want, in the manner they want it, than would expanding regulations. If cable customers are dissatisfied with the way they are receiving local broadcast stations, then surely their direct-broadcast satellite and IPTV competitors will take advantage of this.

Furthermore, regulations requiring that resources be uneconomically dedicated to analog are backward thinking and misguided. Rather than regulatory mandates, it would be better for consumers if the commission allowed competing video-service providers the flexibility they need to determine the type of service their customers want, and offer it to them accordingly.

Therefore, we respectfully urge to pursue a policy that allows the greatest flexibility for cable, satellite, and IPTV providers to abide by must-carry rules and allow competitive markets to provide choices for consumers.

Respectfully submitted,

AMERICANS FOR PROSPERITY
1726 M St. NW
Tenth Floor
Washington, D.C. 20036
202-349-5330



Tim Phillips
Americans for Prosperity

703-310-6015



Jason Wright
Institute for Liberty

INSTITUTE FOR LIBERTY
4094 Majestic Lane
Fairfax, VA 22033

AMERICANS FOR TAX REFORM

1920 L St. NW

Suite 200

Washington, D.C. 20036

202-758-0266

A handwritten signature in blue ink, appearing to read 'G. Norquist', with a stylized flourish at the end.

Grover Norquist

Americans for Tax Reform

MEDIA FREEDOM PROJECT

1920 L St. NW

Suite 200

Washington, D.C. 20036

202-758-0266

A handwritten signature in blue ink, appearing to read 'D. Hunter', with a stylized flourish at the end.

Derek Hunter

Media Freedom Project